



HAROLD BAER
U.S. DISTRICT JUDGE
S. D. N.Y.

MICHAEL A. CARDOZO
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

HILLARY A. FROMMER
Senior Counsel
Phone: (212) 788-0823
Fax: (212) 788-9776
hfrommer@law.nyc.gov

May 31, 2007

VIA HAND DELIVERY

The Honorable Harold Baer
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Mangianello v. The City of New York et al.
07 Civ. 3644 (HB)(GWG)

Dear Judge Baer:

I am the Senior Counsel with the Office of the Corporation Counsel assigned to the defense in the above-referenced matter in which plaintiff alleges that he was falsely arrested and maliciously prosecuted. Defendant City of New York respectfully requests that its time to respond to the complaint be extended for sixty days from the current due date of June 5, 2007 until August 6, 2007. Plaintiff's counsel would consent to this request only if the City agreed to waive any issues involving service of process that may arise. Because defendant City would not agree to such waivers, this request is made without plaintiff's consent.

There are several reasons for seeking an enlargement of time. In accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, defendant City needs this additional time to investigate the allegations of the complaint. It is our understanding that the records of the underlying criminal action, including police records, may have been sealed pursuant to New York Criminal Procedure Law § 160.50. Therefore, this office has already forwarded to plaintiff for execution a consent and authorization for the release of sealed records so that the defendant can access the information, properly assess the case, and respond to the complaint. No previous request for an extension has been made by defendant.

Additionally, upon information and belief, several of the individually named defendants have retired from the New York City Police Department and have not been properly served with the summons and complaint. This extension should give plaintiff the time to serve those individuals and, if timely served, may provide time for this office to make representational

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decisions with respect to them. See *Mercurio v. The City of New York et al.*, 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting *Williams v. City of New York et al.*, 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

Accordingly, we respectfully request that defendant City's time to answer or otherwise respond to the complaint be extended to August 6, 2007.

Thank you for your consideration in this matter.

Respectfully submitted,

Hillary A. Frommer

Hillary A. Frommer (HF 9286)
Senior Counsel

cc: Michael Joseph (via facsimile)

(1) Assume prompt
return of authorizations for the underlying criminal case.
(2) Assume prayer service
has been made on retirees or soon will be.
(3) Even if that has not happened
it will happen soon but even if it does not
happen I will need a PTC before August.
(4) Therefore I will extend your trial
to answer or move to July 19 - but check with
chambers to be sure of the date for my last conference
day in July and for the terms and be guided accordingly.
SO ORDERED
Hansmann 6/18/07
USDS

Endorsement:

1. I assume prompt return of authorizations for this underlying criminal case.
2. I assume proper service has been made on retirees or soon will be.
3. Even if that has not happened it best happen soon but even if it does not happen I will need a PTC before August.
4. Therefore I will extend your time to answer or move to July 19 but check with Chambers to be sure if the date for my last conference day in July and for the time and be guided accordingly.